IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE THOTTATHIL B.RADHAKRISHNAN

TUESDAY, THE 25TH SEPTEMBER 2007 / 3RD ASWINA 1929

WP(C).No. 34741 of 2005(J)

PETITIONER:

THE KANDAKADAVU PARASEKHARAM, REP. BY
ITS PRESIDENT, SRI.BENNAN VARGHESE, PADASSERY
HOUSE, CHERIYAKADAVU, KANNAMALI P.O. KOCHI 682 008

BY ADV. SRI.DINESH R.SHENOY

RESPONDENTS: 1

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1. THE STATE OF KERALA, REP. BY THE
SECRETARY, FISHERIES DEPARTMENT, TRIVANDRUM.

2. THE DIRECTOR OF FISHERIES, VIKAS BAHVAN,
TRIVANDRUM.

3. THE DEPUTY DIRECTOR OF FISHERIES,
SALIM ALI ROAD, KOCHI.

4. JOHN CHRSTOPHER K.A. KURUSINGAL HOUSE,
KANDAKKADAVU, KOCHI.

R4 BY ADV. SRI.M.POLY MATHAI
SRI.P.CHELLAPPAN
R1 TO 3 BY GOVERNMENT PLEADER SHRI. T.B. RAMANI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 25/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX IN W.P(C) 34741/2005

PETITIONER'S EXTS:

EXT.P1: TRUE PHOTOCOPY OF SALE DEED NO: 3163/99 KOCHI SRO

EXT.P2: -DO- OF THE BYELAW OF THE KANDAKKADAVU PADASEKHARAM

EXT.P3: -DO- OF THE MINUTES OF THE ANNUAL GENERAL BODY DT. 25.9.2004 OF THE KANDAKKADAVU PADASEKHARAM TOGETHER WITH THE TERMS AND CONDITIONS OF THE AUCTION 2004-05

EXT.P4: -DO- OF THE PLAINT FILED IN O.S. NO: 56/2004, MUNSIFF COURT, KOCHI

EXT.P5: -DO- OF THE WRITTEN STATEMENT FILED BY THE PETITIONER IN O.S. NO: 56/2004, MUNSIFF COURT, KOCHI

EXT.P6: -DO- OF THE JUDGMENT DT. 20.6.2005 IN W.P(C) NO: 2184/2005

EXT.P7: -DO- OF THE JUDGMENT IN W.A NO: 1652/05 DT. 16.8.2005

EXT.P8: -DO- OF THE REPRESENTATION DT. 3.9.2005 FILED BY THE PETITIONER

EXT.P9: -DO- OF THE ORDER DT. 20.10.2005 ISSUED BY THE 2ND RESPONDENT

RESPONDENT'S EXTS:

EXT.R4A: -DO- OF THE REGULATION OF PRAWN FISHING IN PRIVATE WATER RULES, 1974

EXT.R4B: -DO- OF THE CONSENT LETTER ISSUED BY SHRI. U.V. RAJEEV DT. 15.1.2003

jj /TRUE COPY/

P.A TO JUDGE

correct

Apple Sri.John Christopher filed WP(C).No.2184/2005?. That led to judgment dated 28th June, 2005 directing an enquiry into one of his complaints which was stated to be pending. The Padasekharam filed W.A.1652/2005 which was disposed of by judgment dated 16-8-2005 directing that the grievances of Sri.John Christopher shall be examined by the Director of Fisheries with notice to the Padasekharam also. The parties were relegated to the Director of Fisheries to raise all contentions, with a direction to pass appropriate orders in accordance with law.

Orange Incidentally, it also needs to be noticed that transparency of the proceedings of the Inspector of Fisheries in relation to grant of licence can be easily maintained, if the Inpsector ensures that the certified consent letters as are placed before him are available in the files of the Inspector. Even in cases where large extents of properties are involved in a padasekharam, all individual

consent letters with all necessary particulars are placed among the records of the Inspector of Fisheries after ensuring that such consent letters are duly certified by the village officer. Apart from providing transparency for the proceedings, this will also ensure that there would be reliable materials on record in case of any controversy between the private parties.

Banana However, the prawns, other crustacea, pies or other water borne, would know no boundaries when they move freely unknowing that they are meant only to be harvested, to be added on to the wealth of the homosipians.

THOTTATHIL B. RADHAKRISHNAN, J.

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WP(C).Nos.34741/2005-J & 35480/2005-W

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Dated this the 29th day of June, 2007.

O R D E R

The earlier among the captioned matters is by a Padasekharam. The later is by Sri.John Christopher, a member of that Padasekharam. Different orders were issued at different stages, in these writ petitions, which resulted in a General Body Meeting on 10-6-2007 and a later meeting of the Executive committee on 15-6-2007. Thereafter, on 19-6-2007 this Court has minuted the statements of certain persons, who are the members of the Committee, as also its President and Secretary.

2. Every Padasekharam survives on collective effort of its members. Collective and group farming is the basic idea of nurturing such institutions, called Padasekharams, be it in the field of growing paddy or in the field of fish farming. The primary purpose of the Padasekharam Committees is to ensure collective cordial co-existence resulting in benefit for all and in ensuring a democratic process of deciding any issue that unfortunately crops among the members. A positive motivation of such Committees would contribute not only to all

the members as a whole, but will also secure the interests of the individuals with the aid, advice and support of the other members of the Padasekharam. All these are relevant in the context of this case because, Christopher had been litigating before different courts, including before this Court to secure some rights which he asserts. There are some decisions of the civil Courts touching the matter. But, conciliation leading to reconciliation is necessary to give a final quietus to whatever differences of opinion that could be there between Christopher and the other members of the Padasekharam, if at all.

3. Though I have mentioned that I had minuted, on 19-6-2007, the statements made by some of the members regarding the manner in which the General Body Meeting on 10-6-2007 was conducted and also regarding the contents of its minutes, in the interest of all concerned, the fact that a General Body Meeting was held on 10-6-2007 and that a meeting of the Executive Committee was also held on 15-6-2007, as also the minutes recorded in relation to those meetings shall stand aside for the time being because, having regard to the submissions made on both sides, I am of the firm

view, that if the General Body of the Padasekharam considers the request of Christopher made in the General Body Meeting on 10-6-2007 afresh, this litigation is likely to end on a happy note rather than calling for an order following an adjudication of rights in terms of law.

4. In the aforesaid circumstances, the following orders are issued:

i. A General Body Meeting of the Padaseskharam will be held on 15th July, 2007.

ii. The Tahsildar, Kochi will preside over that meeting, which shall be held in the premises where normally the General Body meetings of the Padasekharam are held.

iii. The Tahsildar will fix time of commencement of the meeting and the Padasekharam will issue notices for the meeting as enjoined by the rules and the bye-

laws.

iv. John Christopher, the petitioner in WP(C). No.35480/2005 will be specifically permitted to place his views on his suggestions made regarding the issues between the parties.

v. Having regard to the issues involved and the rights of the additional respondent in WP (C).35480/2005 which are also being agitated in this case, it is appropriate that he, who is also a member of the Padasekharam, is also heard by the General Body. It is so directed.

vi. The decision of the General Body in the aforesaid meeting shall be minuted and placed before this Court under the signature of the Tahsildar on or before the 19th July, 2007 through the learned Government Pleader.

Post on 23-7-2007.

The learned Government Pleader will also communicate a copy of this order to the Tahsildar.

Hand over to counsel for parties and the learned Government Pleader.

THOTTATHIL B. RADHAKRISHNAN,
JUDGE.

Sha/-